

AMENDMENTS

2012—Pub. L. 112-141, §31208(2)(A), inserted “; conditions on importation of vehicles and equipment” after “process” in section catchline.

Subsecs. (c) to (f). Pub. L. 112-141, §31208(2)(B), added subsecs. (c) to (f).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 30165. Civil penalty

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates any of section 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30141 through 30147, or 31137, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$35,000,000.

(2) SCHOOL BUSES.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be \$10,000 in the case of—

(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

(ii) a violation of section 30112(a)(2) of this title.

(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is \$15,000,000.

(3) SECTION 30166.—Except as provided in paragraph (4), a person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$35,000,000.

(4) FALSE OR MISLEADING REPORTS.—A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,000,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

(1) the nature of the defect or noncompliance;

(2) knowledge by the person charged of its obligations under this chapter;

(3) the severity of the risk of injury;

(4) the occurrence or absence of injury;

(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

(6) actions taken by the person charged to identify, investigate, or mitigate the condition;

(7) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

(8) whether the person has been assessed civil penalties under this section during the most recent 5 years; and

(9) other appropriate factors.

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpoena for a witness may be served in any judicial district.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 968; Pub. L. 103-429, §6(23), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 106-414, §5(a), Nov. 1, 2000, 114 Stat. 1803; Pub. L. 109-59, title X, §10309(c), Aug. 10, 2005, 119 Stat. 1942; Pub. L. 112-141, div. C, title I, §§31203(a), 31304(b), title II, §32301(c), July 6, 2012, 126 Stat. 758, 764, 788.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
30165(a)	15:1398(a). 15:1424(b) (related to civil penalty).	Sept. 9, 1966, Pub. L. 89-563, §109(a), 80 Stat. 723; Oct. 27, 1974, Pub. L. 93-492, §103(b), 88 Stat. 1478. Sept. 9, 1966, Pub. L. 89-563, §§109(b), 110(d) (related to §109), 204(b) (related to civil penalty), 80 Stat. 723, 724, 729.
30165(b)	15:1398(b) (1st, last sentences).	
30165(c)	15:1398(b) (2d sentence).	
30165(d)	15:1399(d) (related to 15:1398).	

In subsection (a), the text of 15:1424(b) (related to civil penalty) is omitted because of the restatement. The words “is liable to the United States Government for” are substituted for “shall be subject to” for consistency. The words “A separate violation occurs for” are substituted for “Such violation of a provision of section 1397 of this title, or regulations issued thereunder, shall constitute a separate violation with respect to” to eliminate unnecessary words.

In subsection (b)(2), the words “amount of a civil penalty imposed or compromised” are substituted for “amount of such penalty, when finally determined, or the amount agreed upon in compromise” to eliminate unnecessary words.

In subsection (d), the words “who are required to attend a United States district court” are omitted as surplus. The words “be served in” are substituted for “run into” for clarity.

PUB. L. 103-429

This amends 49:30141(c)(4)(A) and 30165(a) to correct erroneous cross-references.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-141, §32301(c), substituted “30141 through 30147, or 31137” for “or 30141 through 30147”.

Pub. L. 112-141, §31203(a)(1)(A), substituted “30123(a)” for “30123(d)” and “\$35,000,000” for “\$15,000,000”.

Subsec. (a)(3). Pub. L. 112-141, §31304(b)(1), substituted “Except as provided in paragraph (4), a person” for “A person”.

Pub. L. 112-141, §31203(a)(1)(B), substituted “\$35,000,000” for “\$15,000,000”.

Subsec. (a)(4). Pub. L. 112-141, §31304(b)(2), added par. (4).

Subsec. (c). Pub. L. 112-141, §31203(a)(2), amended subsec. (c) generally. Prior to amendment, text read as follows: “In determining the amount of a civil penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.”

2005—Subsec. (a)(2), (3). Pub. L. 109-59, which directed amendment of section 30165(a), without specifying the title to be amended, by adding par. (2) and redesignating former par. (2) as (3), was executed to this section, to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106-414 amended heading and text generally. Prior to amendment, text read as follows: “A person that violates any of sections 30112, 30115, 30117-30122, 30123(d), 30125(c), 30127, 30141-30147, or 30166 of this title or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$800,000.”

1994—Subsec. (a). Pub. L. 103-429 substituted “any of sections 30112” for “section 30112” and inserted “any of” before “those sections” in two places.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-141, div. C, title I, §31203(c), July 6, 2012, 126 Stat. 758, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date that is the earlier of the date on which final regulations are issued under subsection (b) [set out as a note below] or 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways].”

Amendment by sections 31304(b) and 32301(c) of Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

CIVIL PENALTY CRITERIA

Pub. L. 112-141, div. C, title I, §31203(b), July 6, 2012, 126 Stat. 758, provided that: “Not later than 1 year after

the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.”

§ 30166. Inspections, investigations, and records

(a) DEFINITION.—In this section, “motor vehicle accident” means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) AUTHORITY TO INSPECT AND INVESTIGATE.—(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) MATTERS THAT CAN BE INSPECTED AND IMPOUNDMENT.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter;

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce (including at United States ports of entry), or held for sale after introduction in interstate commerce;

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident;

(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.

(d) REASONABLE COMPENSATION.—When a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor